



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

February 19, 2008

MEMORANDUM

SUBJECT: Effects Determinations for Naled Relative to the California Red-Legged Frog and Designated Critical Habitat

FROM: Donna Randall
ERB 2
Environmental Fate and Effects Division

TO: Arthur-Jean B. Williams, Associate Director
Environmental Fate and Effects Division

Attached is the assessment of potential direct and indirect effects to the California red-legged frog (CRLF) and potential modification to designated critical habitat from uses of the pesticide naled. While the Endangered Species Act requires we assess uses of pesticides relative to any potentially affected listed species, this assessment focuses only on the CRLF, including designated critical habitat, addressing provisions of a settlement agreement entered into by the federal government to resolve claims made by plaintiffs against EPA in a court case (CBD v. EPA¹).

The attached assessment was conducted consistent with the Agency's Overview Document². Effects determinations for the assessment are summarized below:

- A "No Effect" (NE) determination is made for the CRLF and its designated critical habitat for indoor naled uses (including greenhouses, indoor food processing facilities, and structural interiors) as they will not result in exposure to the CRLF or its designated critical habitat.
- A "Not Likely to Adversely Affect" (NLAA) determination for spot treatments (*e.g.*, utility poles, refuse areas, structural perimeters) and bait stations, because exposure and effects will be discrete and very limited in extent such that direct or indirect effects to the CRLF are considered insignificant or discountable and no significant modification of its designated critical habitat is expected.
- A "Likely to Adversely Affect" (LAA) determination is made for all other uses due primarily to indirect effects to the aquatic and terrestrial invertebrate prey base, and the mammalian and

¹ Settlement agreement of October 20, 2006: Center for Biological Diversity v. United States Environmental Protection Agency. Civ. No: 02-1580-JSW(JL)

² Overview of the Ecological Risk Assessment: Process in the Office of Pesticide Programs, U.S. Environmental Protection Agency: Endangered and Threatened Species Effects Determinations: January 23, 2004.

amphibian prey base. Depending on the use there may additionally be direct effects to the aquatic- and terrestrial-phase CRLF. Modification to designated critical habitat from these uses is also expected primarily due to changes to food sources for juvenile and adult CRLFs (aquatic and terrestrial invertebrates, small mammals, and amphibians). Insignificant effects to terrestrial and aquatic plants of designated critical habitat are expected.

As required by the Alternative Consultation Agreement EPA entered into with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services), I have been trained by the Services to make such determinations. Additionally, this assessment was subjected to internal Agency peer review throughout its development. The review panel included one other scientist who has been trained by the Services to make such determinations (Melissa Panger).

Please let me know if you have any questions regarding this assessment and effects determination for naled relative to the CRLF and its designated critical habitat.

cc: Steven Bradbury
Debbie Edwards

Attachments